



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

March 3, 1989
A0-89-07

James Roosevelt, Esquire
Co-Legal Counsel
Democratic State Committee
11 Beacon Street, Suite 426
Boston, Massachusetts 02108

Dear Mr. Roosevelt:

This letter is in response to your recent request for an advisory opinion.

The Democratic State Committee (the "Committee") plans on holding its annual political fundraiser on April 3, 1989 at the John B. Hynes Veterans Memorial Convention Center (the "Center"). The Committee would like to rent enough space at the Center to accommodate 2,000 people. Invitations to the fundraiser would request that contributions be returned before the date of the fundraiser. It is expected that certain monies would be collected at the door by Committee personnel, however. All tables, linens, food, audio equipment, service personnel and the like would be supplied by subcontractors hired by the Committee.

You have asked whether M.G.L. c.55, specifically section 14 thereof, would permit the Committee to hold a political fundraiser in the Center.

We will attempt to answer your inquiry by identifying what we consider to be critical issues and responding to such issues.

Section 14 of M.G.L. c.55 states, in pertinent part: "[n]o person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the [political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever]."

1. Is the Massachusetts Convention Center Authority (the "Authority"), the owner and operator of the Center, a governmental entity?

The Authority was created by Chapter 190 of the Acts of 1982. Section 33 of said chapter states that "[t]he

Authority is hereby constituted a public instrumentality and the exercise by the Authority of the powers conferred by this act shall be deemed and held to be the performance of an essential public function." Section 40 further provides that the Authority shall submit an annual report to the governor and the clerks of the senate and the house of representatives. Section 41 adds that the books and records of the Authority shall be subject to an annual audit by the auditor of the commonwealth. Finally, section 41A states that the provisions of M.G.L. c.12A, which are applicable to public authorities, are applicable to the Authority.

Based on the enabling provisions contained in chapter 190 of the Acts 1982, this office will consider the Authority to be a governmental entity for the purposes of M.G.L. c.55.

2. If the Authority is a governmental entity, are the Center's convention facilities then "occupied for state, county or municipal purposes" as contemplated by section 14 of M.G.L. c.55?

The Center was remodeled in order to "develop and establish a convention center of sufficient size and with adequate facilities to accommodate major national and international conventions" (section 38(c) of chapter 190 of the Acts of 1982). Furthermore, the Center's convention facilities must "be available to prospective users . . . in a nondiscriminatory manner" (section 37 of chapter 190 of the Acts of 1982). In addition, the promotional literature distributed by the Authority itself describes the Center's convention facilities as able to accommodate "intimate business meetings for 22 to dynamic mega-conventions for 22,000." Additionally, the literature lists, as part of the Center's convention facilities, five exhibit halls, a ballroom, 38 meeting rooms, a 400-seat dining room and a multi-purpose auditorium. Thus, neither the enabling legislation for the Authority nor the Authority's own materials suggest that the Center's convention facilities have solely governmental purposes. In fact, the purpose of the convention facilities seems to be primarily to accommodate gatherings of private parties.

It is the opinion of this office, therefore, that although the Authority may be considered a governmental entity, the portion of the Center which encompasses the convention facilities would not be "occupied for state, county or municipal purposes" if such portion of the Center were to be rented by the Committee. Any fundraising done by the Committee would therefore not be subject to the provisions of section 14 of M.G.L. c.55.

This opinion does not address the applicability of the provisions of M.G.L. c.55 to the employees of the Authority

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nor the Authority's own office space within the Center.
Additionally, this opinion has been rendered solely on the
basis of the representations made by you and agents of the
Committee and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you
have additional questions.

Very truly yours,

A handwritten signature in cursive script, reading "Mary F. McTigue". The signature is fluid and extends to the right with a long, sweeping tail.

Mary F. McTigue
Director